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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/590,207

10/26/2006

Toru Tsukagoshi

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4406

25944 7590 11/30/2009

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EXAMINER

DENTZ, BERNARD I

ART UNIT

PAPER NUMBER

1625

MAIL DATE

DELIVERY MODE

11/30/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/590,207	<b>Applicant(s)</b> TSUKAGOSHI ET AL.	
	<b>Examiner</b> Bernard Dentz	<b>Art Unit</b> 1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-31 and 34-43 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 8-11, 32 and 33 is/are rejected.
- 7) ☒ Claim(s) 4 and 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9-17-2009</u> . | 6) <input type="checkbox"/> Other: _____  |

Claims 1-3, 5, 6, 8-11, 32 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanikawa et al, US Patent 6,066,631 cited by applicants. It discloses a genus of 4-(substituted amino) 2,2-dialkyl-chroman—ols which are substituted on benzo moiety of the chroman nucleus by a substituted amino or a substituted sulfonylamino containing moiety. Although only compounds where said latter amino substituents are substituted on the 6-position are specifically disclosed., the instant 7-substituted amino compounds are included. See col. 1-14 for the generic disclosure. See col. 9, lines 15-22 for the preferred position of the latter.

The compounds are disclosed as useful in the treatment of arrhythmia at col. 76, lines 35-38.

Claims 1-3, 5, 6, 8-11, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanikawa et al, supra. If the 102 rejection is not upheld a 103 rejection also applies because of the above mentioned disclosure. It is obvious to make the position isomer. The position in this case refers to the 7-position versus the 6-position of the preferred compounds of the reference.

See also the specific compounds named in the Tables. See e.g., col. 29, first Table, compound 11; col. 29, second table compounds 8 and 11; and col. 33, top table compound 10.

Claims 4 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 1625

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernard Dentz whose telephone number is 571-272-0683. The examiner can normally be reached on Mon-Fri from 8 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres, can be reached on 571 272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/ Bernard Dentz/

Primary Examiner, Art Unit 1625